

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DARRELL RAY EDWARDS,)	No. C 10-4164 LHK (PR)
)	
Petitioner,)	ORDER TO SHOW CAUSE
)	
v.)	
)	
WARDEN RANDY GROUNDS,)	
)	
Respondent.)	

Petitioner, a state prisoner proceeding *pro se*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his petition, Petitioner raised two claims: (1) his guilty plea agreement was breached, and (2) the Board's denial of parole violated his right to due process. On January 31, 2011, the Court dismissed Claim 2 for failure to state a claim, but gave Petitioner leave to amend if he could allege that he did not receive the minimum procedural protections as mandated by the federal constitution. The Court directed Petitioner either to amend his petition or notify the Court that he would proceed on the sole claim that his guilty plea agreement was breached. On February 23, 2011, Petitioner filed a notice, electing to proceed only with Claim 1.¹ Petitioner also requested permission to file a brief in support of his

¹ The Court notes that in his notice, Petitioner states that he will not amend Claim 2, but "does not abandon any portion of Contract claim 1 or 2, or any exhibits in his original petition." (Docket No. 10 at 1.) The Court is not aware of any "Contract claim 1 or 2" at issue in this

1 cognizable claim. Petitioner's request is GRANTED.

2 The Court orders Respondent to show cause as to why the petition should not be granted
3 as to the claim of whether Petitioner's guilty plea agreement was breached.

4 **CONCLUSION**

5 1. Petitioner's request to file a brief in support of his petition is GRANTED.

6 2. The Clerk shall serve by mail a copy of this order and the petition and all
7 attachments thereto upon the Respondent and the Respondent's attorney, the Attorney General of
8 the State of California. The Clerk shall also serve a copy of this order on Petitioner.

9 3. Respondent shall file with the Court and serve on Petitioner, within **ninety days**
10 of the date this order is filed, an answer conforming in all respects to Rule 5 of the Rules
11 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be
12 granted. Respondent shall file with the answer and serve on Petitioner a copy of all portions of
13 the underlying state criminal record that have been transcribed previously and that are relevant to
14 a determination of the issues presented by the petition.

15 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the
16 Court and serving it on Respondent within **thirty days** of the date the answer is filed.

17 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an
18 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section
19 2254 Cases within **ninety days** of the date this order is filed. If Respondent files such a motion,
20 Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-
21 opposition within **thirty days** of the date the motion is filed, and Respondent **shall** file with the
22 Court and serve on Petitioner a reply within **fifteen days** of the date any opposition is filed.

23 5. It is Petitioner's responsibility to prosecute this case. Petitioner is reminded that
24 all communications with the Court must be served on Respondent by mailing a true copy of the
25 document to Respondent's counsel. Petitioner must keep the Court and all parties informed of
26 any change of address by filing a separate paper captioned "Notice of Change of Address." He
27

28

petition.

1 must comply with the Court's orders in a timely fashion. Failure to do so may result in the
2 dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure
3 41(b).

4 IT IS SO ORDERED.

5 DATED: 3/29/11


LUCY H. KOH
United States District Judge